

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Developing a Unified Inter-carrier	)	Docket No. CC 01-92
Compensation Regime	)	
	)	
Missoula Plan	)	DA 06-2294
Phantom Traffic Proposal	)	
	)	

**THE REPLY COMMENT OF  
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission (PaPUC) files this Reply Comment in response to the Federal Communication Commission's (FCC) Public Notice at DA 06-2294 released November 8, 2006 (the "Phantom Traffic Notice").

The Phantom Traffic Notice solicits comments and replies on a proposed interim process to address phantom traffic issues and a related proposal for the creation and exchange of call detail records (Phantom Traffic filing). The Missoula Plan supporters filed the Phantom Traffic proposal with the FCC in an *ex parte* dated November 6, 2006.

**The PaPUC Reply Comment**

*Preliminary Observations.* The PaPUC appreciates the opportunity to respond to the Phantom Traffic Notice. The PaPUC particularly appreciates the FCC's decision to extend the Reply Comment

period to January 5, 2007.

The PaPUC Reply Comment should not be construed as binding on the PaPUC in any proceeding before the PaPUC nor the views of any PaPUC Commissioner or group of Commissioners. The Reply Comment could change in response to subsequent events including review of filed Comments, subsequent filings in this docket, or further developments under state and federal law.

### **Summary of the Reply Comment**

The PaPUC shares the concern of Verizon and other Commentors questioning the need to impose new and costly network upgrades or the installation of hardware and software updates in order to address phantom traffic problems. The PaPUC shares the view that there are more cost-effective solutions. This includes modest revisions to the existing rules and allowing carriers with phantom traffic problems to negotiate solutions with tandem service providers.

The PaPUC shares the concern of the Phantom Traffic proponents, including Hickory Telephone Company (HTC) of Pennsylvania, about the need to ensure that Verizon's solutions are provided to rural carriers in Pennsylvania. The PaPUC does not question the need for solutions but rather only the solution proposed.

The PaPUC recommends that the FCC adopt Verizon's position with some caveats that would help address concerns of carriers like HTC in Pennsylvania. First, the FCC can amend the rules to require a tandem service provider to deliver both CIC and OCN information on all calls coming from their tandem to a rural carrier's switch. Second, the tandem service

provider could be expected to collect, and remit to a rural carrier, the highest rate between a terminating carrier's reciprocal compensation or interstate and intrastate access rates for unidentified calls coming from a tandem service provider.

These requirements, however, should apply only where a rural carrier's switch can actually record the Minutes of Use (MOUs) coming from a service provider's tandem. Otherwise, the rules should not be changed.

Finally, a terminating carrier should be expressly authorized to negotiate with any other carrier, including the tandem service provider, on more cost-effective solutions in those cases where combined CIC/OCN documentation is unavailable from the tandem provider or a carrier prefers a negotiated compensation solution compared to the billing and remitting obligation.

### **Extended Discussion of the Reply Comment**

The Phantom Traffic proposal details a default process but carriers can develop alternative compensation arrangements. The proposal consists of an interim and final solution.

*The Interim Solution.* The interim solution covers all wireline and wireless traffic as well as wholesale switching service. A carrier is required to provide calling detail similar to that set out in the *Final Solution* on the day the FCC adopts this interim solution. However, a carrier unable to do so has up to 270 days to develop the processes needed to provide the call detail requirements set out in the interim solution.

Regarding VoIP traffic, interstate access rates will apply to determine the compensation due for interstate and intrastate VoIP where calling information is available. There is no provision to collect intrastate access rates. Where calling information is not available, a Factor 1 and Factor 2 approach will determine a percentage to be billed at interstate rates and intrastate rates.

*The Final Solution.* The final solution proposes a Uniform Process that contains much of the requirements set out in the interim solution. This includes a requirement that it cover all wireline and CMRS (wireless) traffic as well as traffic not otherwise subject to the *MECAB Standards Requirement*. The rules require an ILEC to develop detailed calling records for all tandem transit traffic it receives as well as for all tandem traffic it sends. The final solution is effective on day one of Step 2 of the Missoula Plan.

The required calling detail consists of the date of call, Calling Party Number, Called Party Number, Sending Carrier ID (either CIC or OCN) and the call's duration. The traffic is to be exchanged electronically on a daily basis unless there are other agreements. There is no additional compensation for this calling record service other than the charges paid for Tandem Transit Service (TTS) under the Missoula Plan.

*Comments Supporting the Phantom Traffic proposal.* A majority of the comments filed support the proposal. The United States Telephone Association (USTA) supports the proposal as a good starting point given the complexity of the subject. The National Exchange Carriers Association (NECA) supports the immediate adoption of the principles as a significant step towards resolving this complex issue. The Western Telecommunications

Alliance (WTA) recognizes that the interim solution is not the perfect or ultimate solution although it is a good starting point on the problem.

The Rural Independent Alliance (RIAA) supports the plan because it addresses the ability of originating carriers' to hide behind a tandem service provider's service to avoid paying terminating carriers (largely rural) their appropriate compensation. The Alaska Telephone Association echoes those claims with observations that phantom traffic is particularly acute in Alaska.

However, Nebraska Rural Independent Companies observed that it would be useful to establish a process to measure the impact of these proposed rules in order to measure their ability to reduce phantom traffic. The Public Utility Commission of Ohio also supports the plan although the New Jersey Division of the Ratepayer Advocate suggests that this matter be spun off from the Missoula Plan.

*Comments Opposing the Phantom Traffic Proposal.* Verizon, Qwest, and the Cellular Telecommunications Industry Association (CTIA) oppose the plan. Verizon considers the proposal a solution in search of a problem because existing rules, including ITOPR and the obligation to provide CIC information for IXC calls and OCN information for all others, already address this issue. Verizon is particularly concerned about the cost to develop new network solutions or install updated hardware or software to implement unnecessary rules.

Verizon suggests that ITORP approaches to retail billing and the ability to identify the carrier whose trunks are coming into the tandem makes this far less of a problem than represented by the proponents. In Verizon's view, the ability to identify traffic to the tandem according to the CIC or OCN information currently exists. Finally, Verizon urges the FCC to recognize that current information transmittal obligations that Verizon

already has for rural carrier call terminations provide the rural carrier with all the information it needs for appropriate billing. Verizon questions the need to develop expensive rules that would simply shift the collections procedures needed to obtain compensation from rural carrier recipients to tandem transit providers.

Qwest opposes the plan's fundamental premise that transit service providers must become billing and collection agents for originating and terminating carriers. Qwest questions the wisdom of converting transit service providers into billing agents for carriers. Qwest proposes interim common sense solutions to the problem that will not make transit providers billing agents.

CTIA opposes the plan because it does not address the real problem of rate differences between various kinds of traffic reflected in the existence of phantom traffic. CTIA urges the FCC to adopt a fully unified approach to interconnection and intercarrier compensation because that will most effectively remedies the phantom traffic problem.

*A Compromise Solution.* The PaPUC shares Verizon's concern about the need to mandate new requirements obligating tandem transit providers to develop and implement network changes and install hardware and software upgrades to transmit traffic from a tandem to another carrier's switch or end office.

The PaPUC agrees with Comments clearly indicating that this is largely a problem involving traffic and compensation arrangements between an RBOC's tandem and a rural carrier's switch or end office.

The PaPUC also agrees with Verizon that the extended solution is an expensive remedy in search of a problem. The network and equipment

upgrade costs are significant compared to the apparent benefit of obtaining CIC and OCN information for each and every call.

The PaPUC disagrees with Verizon, however, that the current rules on ITORP and the obligation to differentiate between the CIC information for IXC calls and OCN detail for all calls can continue to resolve this problem. ITORP solutions in place apply to intraLATA calls as opposed to intrastate interLATA calls, which is important in a state the size of Pennsylvania. The PaPUC questions the wisdom of extending a compensation structure in place for calls within a LATA to calls in place between LATAs. But, to the extent this is already a practice in some states, the approach warrants consideration.

However, the PaPUC agrees with the concerns of some proponents, and Hickory Telephone Company (HTC) of Pennsylvania in particular, about the extent to which Verizon's professed solutions address the problem.

The PaPUC respects HTC's claim that the problem arises simply because its switch records more MOUs per month than what Verizon provides in a retroactive monthly statement. The PaPUC understands that HTC attributes this disconnect to the fact that Verizon provides real-time CIC only for IXC calls and provides backdated general information for all other calls using OCN. Verizon recognizes as much in their Comment.<sup>1</sup>

The PaPUC agrees with Verizon that there are less expensive ways than detailed mandates to ensure that HTC obtains the CIC and OCN information it needs for all calls coming from a tandem to a rural carrier's switch or end office. The PaPUC agrees with HTC that there is a need to

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<sup>1</sup> *Phantom Traffic Proposal*, CC 01-92, Comment of Verizon (December 7, 2006), p. 6 ("The transit provider then populates the billing record with a code identifying the carrier to which that trunk is assigned, using either a "carrier identification code"

obtain more detailed calling information although that information should not distinguish between IXCs whose autonomy has been impacted by recent mergers and the continuing existence of independent rural carriers.

However, the PaPUC disagrees with HTC that the FCC should endorse a regulation allowing rural carriers to refuse to connect calls that are not properly identified. This happened in the *Madison River* case, and the FCC properly fined the carrier for doing that. The Section 251(a) obligation to maintain a seamlessly connected telecommunications network on a national scale is too important to sacrifice in order to address the need of some discrete carriers to craft a detailed solution ensuring that they receive compensation for every call that ever touches their network in perpetuity.

The PaPUC urges the FCC to consider an approach that reflects Verizon's position with some caveats. First, the FCC should consider requiring a tandem service provider to deliver CIC and OCN information on all calls coming from its tandem to a rural carrier's switch. This is relatively easy to accomplish given that tandem service providers already provide such information albeit on a more segregated basis. An obligation to provide that information for all calls is less costly and burdensome than the sort of detailed mandates set out in the Phantom Traffic proposal.

In addition, the FCC should consider an approach in which the tandem service provider collects, and remits to a rural carrier, the highest rate between reciprocal compensation or interstate and intrastate access rates for any unidentified calls. Moreover, a tandem service provider should be appropriately compensated for this service in contrast to the Phantom Service proposal's suggestion that there be no additional charges for such services beyond those set out in the Missoula Plan.

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("CIC") if the carrier is an IXC or an "operating company number" ("OCN") if the



These requirements, however, should apply only in situations where a rural carrier's switch can actually record the MOUs coming from a service provider's tandem. Otherwise, the existing rules should be retained and the Phantom Traffic solution as proposed should be rejected.

Finally, these kinds of relatively inexpensive modification to the existing rules also require a more granular approach that reflects local circumstances best known to the state commissions and their local carriers. Consequently, the PaPUC also suggests that a carrier be permitted to initiate negotiation with other carriers in order to address phantom traffic with any disputes to be resolved by the respective state commissions.

This "provide the CIC/OCN information" or "negotiate another approach" solution is appropriate for phantom traffic. This approach is particularly attractive in situations where documentation is unavailable because of limitation in the rural carrier's switching or where a tandem transit service wants a negotiated solution.

The FCC should consider an approach in which carriers determine the most effective way to implement this "provide the CIC/OCN information" or "negotiate another solution" approach to the phantom traffic problem. The PaPUC does not support imposing detailed regulatory mandates in conjunction with a Missoula Plan proposal to reform intercarrier compensation rates by imposing large surcharges on consumers from net contributor states like Pennsylvania.

Respectfully submitted,  
Pennsylvania Public Utility Commission

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carrier is not an IXC."

Joseph K. Witmer, Esq.  
Assistant Counsel.

David Screven, Esq.  
Assistant Counsel